

House Daily Reader

Wednesday, February 04, 2004

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State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

391J0345

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1096** -
02/02/2004

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Van Etten, Gillespie, Haverly, Konold, Michels, O'Brien, and Wick and Senators Albers, Bogue, Duxbury, Earley, Ham-Burr, Moore, and Olson (Ed)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding licensure by
2 examination for physicians.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 36-4-17 be amended to read as follows:

5 36-4-17. The examination required by this chapter shall be in writing. The questions on all
6 subjects shall be such as are answered alike by all schools of medicine or osteopathy. No license
7 may be refused any applicant because of ~~his~~ adherence to any particular school of medicine.
8 Each applicant shall be required to attain an average percentage of at least seventy-five percent
9 of correct answers. Any applicant failing on such examination is eligible for a maximum of two
10 subsequent examinations upon payment of the required fee at any regular meeting of the Board
11 of Medical and Osteopathic Examiners or at such time and place as the board may designate.
12 Before taking the examination, the applicant shall pay to the secretary of the board a fee to be
13 set by the board in an amount not to exceed five hundred fifty dollars. The applicant must pass



1 all parts or steps of the examination within seven years. However, if the applicant is board-
2 certified by a board of the American Board of Medical Specialties, the Board of Medical and
3 Osteopathic Examiners may waive this requirement. All grades achieved shall be preserved by
4 the secretary of the board for a period of at least three years.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

686J0557

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1133 - 02/02/2004

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Murschel, Buckingham, Christensen, Cutler, Dykstra, Hennies, Kraus, LaRue, Olson (Mel), and Teupel and Senators Olson (Ed), Albers, Dempster, Duniphan, Koetzle, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to allow students in need of special education to open enroll
2 without a joint individual education program team meeting under certain circumstances.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-28-42.1 be amended to read as follows:

5 13-28-42.1. Notwithstanding the provisions of §§ 13-28-44 and 13-37-8.4, a request to
6 transfer a student in need of special education or special education and related services may be
7 granted only if the nonresident district:

8 (1) Upon receipt of an open enrollment application, obtains copies of all relevant student
9 education records on the student applying to open enroll from the resident district;

10 (2) Completes a review of those relevant student education records; and

11 (3) Directly communicates with the student's parent or guardian and representatives of
12 the resident district regarding the student's special education or special education and
13 related services needs.

14 If the nonresident district confirms, based upon the records review and communications with



1 the student's parent or guardian and representatives of the nonresident district, that it can provide
2 an appropriate instructional program and facilities, including transportation, if necessary, to
3 meet the needs of the student, it may proceed under the provisions of § 13-28-43. If the
4 nonresident district is not able to make that confirmation, the nonresident district shall initiate
5 an individual education program team meeting consisting of representatives from both the
6 resident and nonresident districts to determine whether the nonresident district can provide an
7 appropriate instructional program, facilities, and transportation, if necessary.

8 A request to transfer a student in need of special education or special education and related
9 services may be denied only pursuant to § 13-28-44 or if an individualized individual education
10 program team consisting of representatives from the resident and nonresident districts
11 determines that the nonresident district can cannot provide an appropriate instructional program
12 and facilities, including transportation, to meet the student's needs. If Notwithstanding the
13 provisions of §§ 13-37-1.3 and 13-37-8.4, if the request to transfer is granted, the nonresident
14 district is responsible for the provision of a free appropriate public education for the student in
15 need of special education or special education and related services. Notwithstanding the
16 provisions of § 13-28-45, the individualized education program team nonresident district shall
17 also determine whether the student in need of special education requires transportation as a
18 related service. If so, the nonresident district shall provide or ensure the provision of
19 transportation within the boundaries of the attendance center to which the student is assigned.

20 If a parent or guardian of a student in need of special education or special education and
21 related services requests to transfer the student back to the resident district, the individualized
22 ~~education program team shall consider the request~~ provisions of § 13-28-43 apply.

23 Section 2. That § 13-28-44 be amended to read as follows:

24 13-28-44. Each school district by November 1, 1997, shall by resolution adopt relevant

1 standards for the acceptance and rejection of an application to enroll in the district under the
2 provisions of §§ 13-28-40 to 13-28-47, inclusive. The board shall adopt standards through
3 official board action, set them forth in writing, and make them available to any individual upon
4 receiving an oral or written request. Standards shall be limited to the capacity of a program,
5 class, grade level, and school building operated by the board and the pupil/teacher ratio.
6 Discrimination based on race, gender, religious affiliation, or disability is prohibited. If two or
7 more children from a family residing in the same household must enroll in different school
8 districts as the result of a board's denial of an application to transfer from a resident district or
9 to enroll in a nonresident district under the provisions of §§ 13-28-40 to 13-28-47, inclusive,
10 neither the resident board nor the nonresident board may deny the application. However, two
11 or more children from a family residing in the same household who are eligible for kindergarten
12 through twelfth grade may open enroll only if, pursuant to § 13-28-42.1, the nonresident district
13 can provide an appropriate instructional program and facilities, including transportation, for the
14 child in need of special education or special education and related services. If the nonresident
15 district cannot meet the provisions of § 13-28-42.1 for the child in need of special education or
16 special education and related services, the nonresident district may deny that child's application
17 for open enrollment.

18 The decision of a local school board regarding a student's application for open enrollment
19 or a request to return to the resident district under the provisions of §§ 13-28-40 to 13-28-47,
20 inclusive, is subject to de novo appeal under the provisions of chapter 13-46. The Department
21 of Education may promulgate rules pursuant to chapter 1-26 specifying procedural and
22 administrative requirements for the implementation of the open enrollment program and related
23 transfers and enrollments under the provisions of §§ 13-28-40 to 13-28-47, inclusive.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

654J0129

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1136** - 01/30/2004

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Bartling, Gillespie, Hackl, Hargens, and Kraus and Senators Albers, Brown, Kloucek, and Koskan

1 FOR AN ACT ENTITLED, An Act to repeal the mandated business hours for certain county
2 offices and to require the county commissioners to establish the hours of operation for
3 county offices.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 7-7-2 be amended to read as follows:

6 7-7-2. ~~The auditor, treasurer, and register of deeds of each county in this state shall keep his~~
7 ~~office open and functioning during each day of the year, except Saturdays, Sundays, and~~
8 ~~holidays, at least from eight a.m. to twelve noon and from one p.m. to five p.m. The board of~~
9 ~~county commissioners may~~ shall, by resolution, ~~provide that the office of all such officers~~
10 ~~remain open and functioning during the noon hour of every business day and until noon on~~
11 ~~Saturdays~~ establish the hours of operation for each county government office. The county
12 auditor's office shall remain open, upon the request of a if requested by the person in charge of
13 a school or municipal election, until the closing of the polls and the tabulation of votes for that
14 election.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

931J0615

HOUSE HEALTH AND HUMAN SERVICES
COMMITTEE ENGROSSED NO. **HB 1165** -
02/02/2004

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Glenski, Engels, Hunhoff, Kraus, McCoy, Schafer, Smidt, Solum, and Van Gerpen and Senators Dempster and Kleven

1 FOR AN ACT ENTITLED, An Act to amend rule-making authority and rules to allow certain
2 facilities and hospice programs to redispense certain pharmaceutical drugs under certain
3 circumstances.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 36-11-11 be amended by adding thereto a NEW SUBDIVISION to read
6 as follows:

7 Redispensing of pharmaceuticals.

8 Section 2. That ARSD 20:51:15:01 be amended by adding thereto a NEW SUBDIVISION
9 to read as follows:

10 "Hospice program," a coordinated program of inpatient services providing palliative rather
11 than curative care for a patient.

12 Section 3. That ARSD 20:51:13:02.01 be amended to read as follows:

13 20:51:13:02.01. Return of unused unit dose drugs by patients in hospice programs, nursing
14 facilities, or assisted living facilities. Only unused unit dose drugs from patients in a hospice



1 program, a nursing facility, or an assisted living facility may be returned to the pharmacy that
2 dispensed the drugs for credit and redispensing if the following requirements are met:

3 (1) The facility consults with a licensed pharmacist to oversee the drug distribution to
4 ensure that a person trained and knowledgeable in the storage, use, and administration of the
5 drug has been in control of any unit dose drug being returned to the pharmacy and that the unit
6 dose drug has not come into the physical possession of the person for whom it was prescribed;

7 (2) The pharmacy's manager has received written approval from the board of a protocol
8 detailing the procedure used to repackage, label, transfer, restock, redispense, and credit any unit
9 dose drugs returned to the pharmacy;

10 (3) The drugs are provided in the manufacturer's unit dose packaging or are repackaged by
11 the pharmacy in a hermetically sealed single unit dose container that meets Class A or Class B
12 standards on pages 1937 and 1938 of the United States Pharmacopeia;

13 (4) The unit dose package is labeled by the manufacturer with the drug lot number and
14 expiration date;

15 (5) If the drug is repackaged by the pharmacy, each single unit dose prepackaged or
16 repackaged container must be labeled in accordance with this regulation. Labeling must include
17 the following:

18 (a) Name and strength of the medication;

19 (b) A suitable expiration date which shall not be later than the expiration date on the
20 manufacturer's container, or one year maximum from the date the drug is prepackaged or
21 repackaged;

22 (c) The date the product was prepackaged or repackaged;

23 (d) The manufacturer's lot number, expiration date, and identity;

24 (e) The identity of the pharmacist responsible for prepackaging or repackaging;

1 If the requirements of subdivisions (d) and (e) are maintained in the internal
2 records of the drug outlet, those requirements may be omitted from the labeling.

3 (6) The drug's packaging is tamper resistant and shows no evidence of contamination, such
4 as an opened or stained container;

5 (7) The unit dose drugs have not reached the expiration date;

6 (8) The drugs have not been dispensed in packaging that intermingles different drugs in a
7 single compartment; and

8 (9) The drugs are not controlled drugs.

9 Unused unit dose drugs that are returned under this section may be redispensed pursuant to
10 § 20:51:13:02.03.

11 Section 4. That ARSD 20:51:13:02.03 be amended to read as follows:

12 20:51:13:02.03. Redispensing unit dose drugs returned from hospice programs, nursing
13 facilities, or assisted living facilities. Unused unit dose drugs that are returned under
14 § 20:51:13:02.01 may be redispensed under the following conditions:

15 (1) Drugs may not be removed and repackaged from the returned unit dose package prior
16 to redispensing;

17 (2) Drugs in a manufacturer's unit dose package may be redispensed as often as necessary,
18 if the integrity of the original product and package is maintained;

19 (3) Drugs which have been repackaged into a unit dose package by the pharmacy may be
20 redispensed into a unit dose distribution system and mixed with drugs of a different lot number
21 provided that all lot numbers and expiration dates are placed on the unit dose package;

22 (4) Drugs may be removed from a unit dose package for dispensing in a traditional
23 dispensing system as defined in § 20:51:21:01.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

814J0551

HOUSE TRANSPORTATION COMMITTEE ENGROSSED NO. **HB 1186** - 02/02/2004

Introduced by: Representatives Konold and Solum and Senator Schoenbeck

1 FOR AN ACT ENTITLED, An Act to allow first responder decals to be placed on specialty
2 license plates.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any owner of a motor vehicle, who is a resident of this state, who has a valid South Dakota
7 driver license or South Dakota identification number, may upon request receive a set of
8 specialty license plates that allow for the placement of a first responder decal on the plates. The
9 specialty plates are in lieu of regular license plates issued by the county treasurer and may only
10 be used on noncommercial vehicles that are licensed according to §§ 32-5-6 and 32-5-6.3. If the
11 specialty plates are requested at the time of initial application for title and registration of the
12 vehicle, no fees may be charged for the plates in addition to the costs involved in registering the
13 vehicle. If the specialty plates are requested after the time of initial application or if the vehicle
14 has current South Dakota plates, the owner shall surrender the current plates and pay a ten dollar
15 fee for the specialty plates. This fee is in addition to any applicable costs involved in the



1 registration of the vehicle.

2 Section 2. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 The department shall approve the application of any first responder organization that meets
5 the following requirements:

- 6 (1) The primary activity or interest of the first responder organization serves the
7 community, contributes to the welfare of others, and is not offensive or
8 discriminatory in its purpose, nature, activity, or name;
- 9 (2) The name and purpose of the first responder organization does not promote any
10 specific product or brand name that is provided for sale;
- 11 (3) The decal of the first responder organization does not promote a specific religion,
12 faith, or anti-religious belief; and
- 13 (4) The application and decal design has been approved by the Department of Public
14 Safety.

15 Section 3. That chapter 32-5 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 If the department approves an application for first responder decals and the design of the
18 decal, the department shall furnish the decals to the organization. The first responder
19 organization shall purchase no fewer than one hundred sets of the decals. The organization shall
20 reimburse the department for the cost of the decals, plus a fifteen percent administrative fee. The
21 first responder organization shall establish criteria for an applicant to qualify for the decals and
22 the fee to be charged for the decals. The first responder organization is responsible for the
23 administration and issuance of the decals. No decal other than those authorized and issued by
24 the department are permitted on license plates. Misuse of the decals or use of unauthorized

1 decals is a Class 2 misdemeanor.

2 Section 4. That § 32-5-140 be amended to read as follows:

3 32-5-140. Upon the sale or transfer of a vehicle bearing specialty license plates that display
4 an organization decal or first responder decal, the plates shall remain with the owner and upon
5 approval by the department may be transferred to another vehicle. Anyone receiving
6 organization or first responder license plates may at the time of obtaining the specialty plates
7 purchase from the county treasurer a temporary permit. The owner of the specialty plate shall
8 purchase a permit before the sale of the vehicle to an individual. The permit is valid for fifteen
9 days and costs fifteen dollars. The permit shall be vehicle specific and shall be affixed to the
10 vehicle by the seller at the time of sale or transfer of the vehicle. The new owner of the vehicle
11 may use the permit in the interim of registering the vehicle. The permit may not be used for any
12 other purpose than stated. Misuse of or failure to purchase the temporary permit before the sale
13 of the vehicle is a Class 2 misdemeanor.

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

447J0550

HOUSE TRANSPORTATION COMMITTEE ENGROSSED NO. **HB 1196** - 02/02/2004

Introduced by: Representatives Weems, Pederson (Gordon), Peterson (Jim), and Rounds and
Senators Napoli, Abdallah, and Moore

1 FOR AN ACT ENTITLED, An Act to require certain auction agencies to disclose damage
2 statements or damage notations listed on the title.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 32-6B be amended by adding thereto a NEW SECTION to read as
5 follows:

6 If any motor vehicle has a title that has been marked by this state or another state or
7 jurisdiction denoting any brand or damage and that motor vehicle is offered for sale by a dealer's
8 car auction agency, the auction agency shall announce at the time of the sale that such brand or
9 damage notation is listed on the title. If the auction agency fails to comply with this section, the
10 purchaser of the motor vehicle may return the motor vehicle to the auction agency within ten
11 days after receiving the title, and the auction agency shall make a full refund to the purchaser.



State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

437J0607

HOUSE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB 1295** - 02/02/2004

This bill has been extensively amended (houghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Bradford, Engels, Valandra, and Van Norman and Senator Kloucek

1 FOR AN ACT ENTITLED, An Act to revise certain enforcement procedures regarding the
2 prohibition on certain objects dangling between a motor vehicle driver and the vehicle's
3 windshield.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 32-15-6 be amended to read as follows:

6 32-15-6. It is a petty offense for any person to drive any vehicle upon a highway with any
7 object or gadget dangling between the view of the driver and the windshield of the vehicle.
8 Enforcement of this section by state or local law enforcement agencies shall be accomplished
9 as a secondary enforcement.

